

## REGULATION OF RATES FOR MESSAGES IN THE INTERNATIONAL SERVICE

Mr. DILL presented the following

MEMORANDUM ENTITLED "THE REGULATION OF RATES FOR MESSAGES IN THE INTERNATIONAL SERVICE", PREPARED BY IRVIN STEWART, OF THE TREATY DIVISION OF THE DEPARTMENT OF STATE

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### MEMORANDUM

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#### A. WHETHER THE GOVERNMENT HAS AUTHORITY FOR SUCH REGULATION

It seems clear that the necessary authority does exist. Congressional power over foreign commerce is at least as great as that over interstate commerce, which has been the basis for the regulation of interstate railway rates. In wire communication rate regulation may properly be an incident of the permission to establish the physical connection; in radio communication an incident of the granting of a license for the establishment of a radio station.

Annex A, page 5, contains instances of the assertion by the National Government of certain powers over rates for international communications by cable, both before and after the passage of the Kellogg Act in 1921. Annex B, page 11, contains instances of the assertion of similar powers by certain foreign governments.

#### B. THE PRESENT METHOD OF REGULATION

##### 1. THE KELLOGG ACT (CABLE LANDING LICENSE OR SUBMARINE CABLE ACT)

This act provides that the President may grant a license to land a submarine cable "upon such terms as shall be necessary to assure just and reasonable rates and service in the operation and use of cables so licensed." It is believed that there are no instances of action by the President or the Department of State challenging particular rates as unjust or unreasonable. Licenses granted submarine telegraph companies under the act require the filing of rates

with the Department of State and specify that the rates must be just and reasonable; but that Department has no facilities for determining their reasonableness.

Licenses to land cables connecting the United States with Mexico and Canada across lakes or rivers, with few exceptions, do not specify that the rates must be just and reasonable and do not require the filing of rates with the Department of State.

## 2. THE INTERSTATE COMMERCE ACT

Certain portions of sections 1 and 15 of the act are quoted in annex C, page 14. Other sections might be cited also, but those chosen would appear to indicate that the Commission has important powers over rates for international communications. Commissioner Eastman, however, in the hearings on the Couzens bill (S. 6, 71st Congress, 1st session) testified that "The only part of that transmission that we have regulation over, as I understand it, is the part which takes place in the United States." (Hearings, p. 1569.)

The power of the Commission over rates charged for the transportation of persons and things is greater than its power over rates charged for transmission of intelligence. With respect to the former, Commissioner Eastman testified that—

I cannot say that the matter is completely determined yet, but the Commission has exercised jurisdiction over such rates to the extent that it has awarded reparation for a tort committed by a United States carrier in joining in an unreasonable international rate. It has held that it has no power over the establishment of such a rate for the future. But we have power to see to it that the charge for the service performed, so far as it takes place within the United States, is reasonable. We could compel the service to be divided, for example, and fix a rate for the part which takes place solely within the United States. (Hearings, p. 1569.)

In any event, the deficiency, if it really exists, is in the congressional grant of power to the Interstate Commerce Commission and not in the powers of Congress. It could be corrected by proper amendment of the Interstate Commerce Act. Perhaps all that would be necessary would be the deletion from section 1 (1) of the clause—

But only insofar as such transportation or transmission takes place within the United States—

This point, however, should be passed on by one more familiar with that act, its interpretation, and operation.

## 3. THE RADIO ACT

The radio act does not give the Federal Radio Commission any jurisdiction over radio rates. It does authorize the Secretary of the Navy to fix rates for certain messages authorized to be sent by naval radio.

### C. THE ELEMENTS OF INTERNATIONAL RATES

In all the cases below, the charges are considered for transmission between the terminals of the international circuit. Charges for transmission between the point of origin (or the point of destination) of the message and the beginning (or the end) of the international circuit are ignored as being constant in all the cases considered.

Charges for international messages are based upon the charge per word.

## 1. CABLE

(a) *Messages between countries in direct cable connection.*—There may be three elements in this charge: (1) Terminal charge of origin, (2) charge for transmission over the cable and (3) terminal charge of destination.

Except as limited by international agreement (and such limitations have been accepted by the governments which are parties to the International Telegraph Regulations; see annex D, p. 15), the country of origin is free to regulate item (1) at its pleasure. Similarly, the country of destination with respect to item (3). Item (2) falls between the two governments. It may be left unregulated, to be determined by the will of the cable company; it may be regulated by the two (or perhaps more, as in the case of a message from New York to South Africa via London) governments acting together; it may be regulated by one government in the absence of action or protest by the other; each government might regulate the rate for messages originating in its territories (impracticable in view of the provision in International Regulations that the charge must be equal in both directions); or it might be the subject of disagreement between the governments.

It is believed that in practice item (2) is unregulated except as provisions in some landing licenses might fix maximum rates or require government approval of increases in rates.

(b) *Messages through transit countries.*—In this case another factor may be added: (4) One or more transit charges. Such charges may be for service rendered, e.g., in connection with the transit of a message over the French telegraph system from the cable landing point to the Swiss border for delivery in Switzerland; or they may be simply a realization upon a geographical situation, as in the Azores, where messages are automatically retransmitted from one leg of a cable to another. Such transit charges are beyond the direct control of the countries of origin or destination; they may be limited by international agreement as in the case of the International Telegraph Regulations (see Annex D) or by provisions in the landing license.

Each country party to the International Telegraph Regulations and each international communication company notifies to the International Bureau of the Telegraph Union its charges under the various headings although in the case of the transit charge at places like the Azores the charge may be fixed in the landing license and be included in the charge which the cable company notifies to the Bureau for its section of the haul.

The charge per word paid by the user of the service is the total of the various elements applicable in the particular case.

## 2. RADIO

For direct transmission only two steps are involved. The elements in the rate may be the same as in the case of direct cable communications. An important difference in practice is that while a cable company may own both ends of a direct circuit, normally the ends of a radio circuit are under different management. Thus, while the cable rate may be fixed by the cable management so far as cable transmission is concerned, the radio rate must be the subject of an agreement.

For provisions applicable to telegrams in the mobile service see Annex E, page 16.

#### D. THE DIVISION OF RECEIPTS FOR INTERNATIONAL MESSAGES

##### 1. CABLE

The terminal and transit charges are paid to the administrations or companies imposing them. Where one company owns the entire cable there is no question of the distribution of the proceeds of the cable transmission. Where separate companies are involved, as for instance, one from New York to the Azores and a second from the Azores to Emden, the division of the rate is the subject of an agreement which may follow the number of miles of cable contributed by each company.

##### 2. RADIO

The division of rates is by agreement and may be made upon one of several possible bases (ignoring outpayments, of course): (1) An equal division between the stations of all receipts for messages exchanged between them, (2) a certain percentage to the transmitting station and the remainder to the receiving station for each message; in some cases the transmitting station may keep the entire sum it receives, (3) a division other than as in (1) and (2) dictated largely by the greater desire on the part of one station than of the other to establish the circuit.

Competition between two companies to establish one end of a circuit may take the form of a contest to determine which will give the station at the other end of the circuit the contract most favorable to it in the division of receipts and other matters.

#### E. MISCELLANEOUS COMMENTS

1. So far as the United States is concerned, rates for international communications at present are largely unregulated except by competition.

2. No single government can regulate all the elements in the rates for international communications.

3. No element in rates for international communications is beyond the power of one or more governments to control.

4. Direct control of the international cable rates by a domestic regulatory body must be of that portion of the rate accruing to the cable company, in addition to one terminal charge.

5. International radio rates can be controlled directly except as the terminal charge of another government may be an element.

6. The division of international rates can be controlled.

7. The control of rates for international communications can lead to the disruption of communications or to serious disagreements with other governments if not properly exercised with a view to all the factors involved.

8. At present in the establishment of radio rates the governments controlling the stations at the other end of the circuits to the United States may take into consideration the desirability of not disrupting existing wire circuits.

## ANNEX A

## RATE PROVISIONS IN AMERICAN CABLE LANDING PERMITS

(Does not attempt to include provisions relative to rates for Government messages)

A. BEFORE THE KELLOGG ACT OF MAY 27, 1921 (CABLE LANDING LICENSES ACT)

1. 1857: An act of Congress authorizing the President to contract with competent persons for an Atlantic cable contained the following:

\* \* \* *And provided*, That the tariff of prices for the use of such submarine communication by the public shall be fixed by the Secretary of the Treasury of the United States and the Government of Great Britain or its authorized agent: \* \* \* (Hearings on the Couzens bill, p. 346.)

2. 1864: An act authorizing a named person to establish telegraph communication with Russia by way of the Bering Strait contained the following:

SEC. 5. *And be it further enacted*, That the rate of charges for public or private messages shall not exceed on said line the average usual rates in Europe and America for the same service, or such rates as shall be ascertained and fixed by a convention between the United States, Russia, and Great Britain: \* \* \* (Ibid. pp. 347-348.)

3. 1866: An act authorizing certain named persons to establish and operate a cable between the United States and the West Indies contained the following provision:

\* \* \* and the said company shall not be permitted to charge and collect for messages transmitted through any of its submarine cables more than the rate of \$3.50 for messages of ten words, subject, however, to the power of Congress to alter and determine said rates: \* \* \* (Ibid. p. 348.)

4. 1869: In the discussions pertaining to the landing of the first French cable, Secretary of State Fish indicated that President Grant favored the idea of fixing a maximum rate of charge. In his annual message of December 18, 1875, President Grant made the following statements:

\* \* \* \* \*  
The right to control the conditions for the laying of a cable within the jurisdictional waters of the United States, to connect our shores with those of any foreign State, pertains exclusively to the Government of the United States under such limitations and conditions as Congress may impose \* \* \* (Ibid. p. 354.)

\* \* \* In the absence, however, of international conventions on the subject, municipal legislation may secure many points which appear to me important, if not indispensable, for the protection of the public against the extortions which may result from a monopoly of the right of operating cable telegrams, or from a combination between several lines: \* \* \* (Ibid. p. 354.)

IV. A power should be reserved to the two Governments, either conjointly or to each, as regards the messages dispatched from its shores, to fix a limit to the charges to be demanded for the transmission of messages.

I present this subject to the earnest consideration of Congress.

In the meantime, and unless Congress otherwise direct, I shall not oppose the landing of any telegraphic cable which complies with and assents to the points above enumerated, but will feel it my duty to prevent the landing of any which does not conform to the first and second points as stated and which will not stipulate to concede to this Government the precedence in the transmission of its official messages and will not enter into a satisfactory arrangement with regard to its charges. (Ibid. p. 355.)

5. 1876: An act of Congress authorizing certain named individuals to lay a cable between the United States and Asia contained the following:

\* \* \* citizens of the United States shall enjoy the same privileges as to the payment of rates for the transmission of messages as are enjoyed by the citizens of the most-favored nations: \* \* \* (Ibid. p. 355.)

6. 1877: An act authorizing certain named persons to lay a cable between the United States and Europe contained the following:

\* \* \* *Provided*, That at least one cable shall be laid and operating between Europe and the Atlantic coast of the United States within three years from the approval of this act; and the at present tariff rates of messages shall be reduced to one third, or one shilling British currency, per word over said new cable or cables: \* \* \* (Ibid. p. 356.)

\* \* \* Citizens of the United States shall enjoy the same privileges as to the payment of rates for the transmission of messages as are enjoyed by the citizens of the most-favored nations. \* \* \* (Ibid. p. 356.)

7. 1879: Regarding the second French cable Secretary of State Evarts took the following view of the power of the executive:

\* \* \* \* \*

The authority of the executive government to admit the laying of transmarine cables to our coast upon such applications as are now presented to this Government is exercised only in the absence of legislation by Congress regulating the subject, and concessions of the privilege heretofore have been subject to such future action of Congress in the very matter of such concessions as it should at any time take. You will therefore understand that if your company accomplish the laying of their cable under the executive permission to be accorded to them, their enjoyment of the privilege will be subject to such future action as Congress may take on the general subject. (Ibid. p. 358.)

The memorandum of conditions required by the United States contained the following:

\* \* \* \* \*

2. That the company shall not consolidate or amalgamate with any other line or combine therewith for the purpose of regulating rates.

\* \* \* \* \*

4. That charges to this Government shall be at the rate of those to the Government of France, and the general charges shall be reasonable.

5. That the Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, or agreement be granted to the French Government. (Ibid. p. 358.)

These conditions were accepted by the cable company, but in connection with its acceptance the company attempted to change the phraseology of point 4 to read as follows:

4. That the rates charged to the Government of the United States shall be the same as those charged to the Government of France, and that the rates charged to the general public shall never exceed the present rates, viz, 3 shillings per word. (Ibid. p. 364.)

Secretary Evarts protested the change, stating that the unreasonableness of the existing cable rates was the main motive for the encouragement of a new and independent cable. The company indicated that it was prepared to accept the conditions as fixed by the Government. (Ibid. pp. 356-367.)

8. 1882: An act authorizing certain named persons to lay a cable between the United States and Europe contained the following:

\* \* \* And the rates charged upon said line for messages for individuals shall not exceed twenty cents for each word.

Secondly. Citizens of the United States shall enjoy the same privileges as to the payment of rates for the transmission of messages as are enjoyed by the citizens of any other nation. (Ibid. p. 368.)

9. 1882: An act of July 25, 1882, authorizing certain named persons to lay a cable between the United States and Europe, provided as follows:

\* \* \* \* \*

Secondly. Citizens of the United States shall enjoy the same privileges as to the payment of rates for the transmission of messages as are enjoyed by the citizens of the most-favored nations. \* \* \* (Ibid. p. 368.)

10. 1883. Commercial Cable Co.: The Secretary of State granted a conditional authorization to certain named persons to lay a cable between the United States and Europe subject to the terms of the act of August 8, 1882. See item 8 above. (Ibid., p. 369-370.)

11. The headnote to the case of the *United States v. La Compagnie Francaise des Cables Telegraphiques*, decided by the Circuit Court for the Southern District of New York on December 15, 1896, reads in part as follows:

1. *Laying cables to foreign countries—Rights of United States.*—It would seem that no one, alien or native, has any right to establish a physical connection as by means of a telegraphic cable, between the shores of this country and any foreign country without the consent of the United States. Whether such consent shall be granted or refused is a political question which, in the absence of legislation, would seem to rest with the Executive. \* \* \* (Ibid., p. 371.)

12. 1898: In accepting a permit to land a cable in the United States, the United States & Haiti Telegraph and Cable Co. accepted the following condition:

\* \* \* \* \*

5. That the rates charged to the Government of the United States shall be the same as those charged to the Government of Haiti, and that the rates charged to the general public shall never exceed the present rates. \* \* \* (Ibid., p. 377.)

13. 1899: The permit of the Deutsch-Atlantische Telegraphen Gesellschaft contained the following stipulation:

\* \* \* \* \*

V. That the rates charged to the Government of the United States shall not be greater than those to any other Government, and the said rates and those charged to the general public shall never exceed the present telegraphic rate between said countries, and shall be reasonable. (Ibid., p. 378.)

14. 1902: The permit of the Commercial Pacific Cable Co. contained the following provisions:

\* \* \* \* \*

1. \* \* \* The said company has not combined or associated itself with, and will not combine or associate itself with, any other cable or telegraph company or concern for the purpose of regulating rates between points in American territory or between them and any point in China, Japan, or other oriental place, except to make reasonable through rates.

\* \* \* \* \*

3. That the rates to be charged for commercial messages shall be reasonable and in no case in excess of the tariff set forth in the Congressional Document No. 568, House of Representatives, Fifty-seventh Congress, first session, signed by George G. Ward, vice president of the Commercial Pacific Cable Co., and attested by Albert Beck, secretary, with proportionate rates for intermediate points plus such out payments as may be exacted by the Chinese Government (Ibid., p. 379.)

15. 1903: The permit of the Felten and Guillaume Carlswerk Actien-Gesellschaft to land a cable at Guam contained the following provision:

\* \* \* \* \*

(2) That the said corporation has not combined or associated itself with, and will not combine or associate itself with, any other cable or telegraph company or concern for the purpose of regulating rates, except to make reasonable through rates.

(3) That the rates charged by the said corporation to the Government or citizens of the United States or of any of its possessions for the transmission of messages shall not be greater than those charged to the Government or citizens or subjects of any other nation, and that the said rates shall be reasonable. \* \* \* (Ibid., p. 383.)

16. 1907: The permit of the Mexican Telegraph Co. and the Central & South American Telegraph Co. contained the following stipulation:

\* \* \* \* \*

2. That the rates to be charged for commercial messages over the said cable shall be reasonable; that the rate for such commercial messages between the United States and the companies' offices in the Canal Zone over said cables shall not exceed 50 cents per word. The rate for commercial messages between the United States and the companies' office near Guantanamo shall not exceed 20 cents per word, and the rate for commercial messages between the companies' office near Guantanamo and their offices in the Canal Zone shall not exceed 30 cents per word. That after 5 years the maximum rates for commercial messages shall be reduced 20 percent. \* \* \* (Ibid., p. 385.)

17. 1907: The permit of the Commercial Cable Co. of Cuba contained the following provisions:

\* \* \* \* \*

3. That the company will not consolidate or amalgamate with any other line or combine therewith for the purposes of regulating rates except to make through rates.

\* \* \* \* \*

5. That the rates charged to the Government of the United States shall not be greater than those charged to any other government, and the said rates and those charged to the general public shall never exceed the present telegraphic rates and shall be reasonable. \* \* \* (Ibid., p. 386.)

18. 1912: The permit of the French Cable Co. to land in Puerto Rico contained the following stipulation:

\* \* \* \* \*

9. That the rates to be charged by the said applicant in connection with the telegraph cable service over its lines as herein projected between Puerto Rico and the city of New York, in either direction, shall not be in excess of the following:

(a) Upon commercial messages, 50 cents per word.  
 (b) Upon press or news messages, 20 cents per word.  
 (c) Official messages of the Government of the United States, the government of Puerto Rico, or any of the departments thereof, shall be transmitted free of charge, and such messages shall have priority over all other business.

(d) Upon commercial, press or news, or official messages, in either direction between Puerto Rico and points in the United States and its possessions, other than the city of New York, and in foreign countries, the rates which may be charged and collected by the said applicant shall not exceed the rates herein above specified for messages of such classes, respectively, in addition to the published or regular tariff or rate for such classes of messages between the city of New York and the points where such messages originate or are required to be delivered. \* \* \* (Ibid., p. 388.)



19. 1917: The permit of the French Cable Co. contained the following:

\* \* \* \* \*

4. That charges to this Government shall not be at a higher rate than to any other government, and these charges, as well as the charges to the general public, shall be fair and reasonable. \* \* \* (Ibid., p. 390.)

20. 1917: The permit of the Intercontinental Telephone & Telegraph Co. contained a provision identical with that in item 19. (Ibid., p. 391.)

21. 1920: A permit of All America Cables contained the following provision:

1. That at least a single line of cable shall be established between Cristobal, Canal Zone, and Cartagena and the other ports in Colombia, above mentioned.

2. That the rates to be charged for commercial messages over the said cable shall be reasonable and shall not exceed 20 cents per word. \* \* \* (Ibid., p. 393.)

22. 1920: A permit of the Western Union Telegraph Co. contained a provision similar to that in item 19. (Ibid. p. 394.)

23. 1920: The permit of the Cuban-American Telephone & Telegraph Co. contained the following provisions:

\* \* \* \* \*

6. That the services and rates—both telegraphic and telephonic—which may be classified are subject to such regulation and control as may now or hereafter be established by Congress or agreed to by treaty between the United States and Cuba. Special rates may be determined for contract services furnished either or both Governments.

\* \* \* \* \*

8. That charges to the United States Government shall not be at a higher rate than to any other government, and these charges, as well as the charges to the general public, shall be fair and reasonable. The charges for the transmission of Government telegraphic messages shall be fixed by the Postmaster General of the United States. The charges for the transmission of Government telephonic communications over lines of the permittee shall not exceed 75 percent of the regular commercial rates for similar communications. \* \* \* (Ibid., p. 396.)

24. 1921: A permit of the All America Cables contained the following provisions:

\* \* \* \* \*

3. That the rates to be charged for commercial messages over the telegraphic line of cable established and operated under this consent shall be fair and reasonable. \* \* \* (Ibid., p. 402.)

#### B. EXTRACT FROM THE KELLOGG ACT

SEC. 2. That the President may withhold or revoke such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States or may grant such license upon such terms as shall be necessary to assure just and reasonable rates and service in the operation and use of cables so licensed: *Provided*, That the license shall not contain terms or conditions granting to the licensee exclusive rights of landing or of operation in the United States: *And provided further*, That nothing herein contained shall be construed to limit the power and jurisdiction heretofore granted the Interstate Commerce Commission with respect to the transmission of messages (42 Stat. p. 8).

## C. AFTER THE KELLOGG ACT

1. August 23, 1921: Thirteen temporary licenses issued on the same day contained the following provision:

\* \* \* \* \*

This consent is granted subject to the issuance of a permit by the Secretary of War under the provisions of section 10 of the act of Congress, approved March 3, 1899, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", subject to any condition or conditions which the President or the Congress of the United States may hereafter see fit to impose, to any action by the President or by the Congress of the United States, confirming, revoking, amending, altering, or modifying, in whole or in part, this license, and subject also to any general treaties or conventions relating to electrical communications to which the United States is now or may become a party \* \* \* (Ibid., p. 404).

2. November 28, 1921. Four permits to lay telephone cables across boundary waters between the United States and Canada contained the following provisions:

\* \* \* \* \*

(4) That the company shall not consolidate, amalgamate, or combine, or enter into any agreement with any other cable or communications company or any foreign government either for the purpose of regulating rates or for any other purpose until 30 days after due notice thereof to the Department of State.

\* \* \* \* \*

(6) That no right shall accrue to any government, person, concern, or corporation under the terms of this license that may not be rescinded, changed, modified, or amended by the President or the Congress of the United States.

(7) That the terms and conditions upon which this license is given shall be accepted by a duly authorized officer of the company and evidence of said acceptance shall be filed with the Secretary of State. The aforesaid acceptance shall include a statement that the company has fully set forth in making application for this license a copy of every landing license which it has been granted in foreign countries and a copy of any contract with foreign governments or private concerns which in any way relates to the control or fixing of rates or the interchange of traffic or which may serve in any way to restrict or prevent competing American companies engaged in furnishing communication services from extending their activities, and further that no such agreements have been made subsequent to the filing of said application for this license (Ibid., p. 412).

A number of later telephone landing licenses contain similar provisions. It will be noted that there is no provision with respect to the reasonableness of rates.

3. 1922: The following provisions from a license granted to All America Cables Co. are typical of licenses issued under the Kellogg Act:

(5) That the rates to be charged for messages over the cable established and operated under this license shall be just and reasonable and certified copies of all tariffs should be filed with the Department of State. \* \* \*

(9) That the company shall not consolidate, amalgamate, or combine, or enter into any agreement relating to the cable with any other cable or communications company, or any foreign government either for the purpose of regulating rates or for any other purpose within 30 days after due notice of intention to do so has been given to the Department of State. \* \* \*

The aforesaid acceptance shall include a statement that the company has fully set forth in its formal application for this license a copy of every landing license which it has been granted in foreign countries and a copy of every contract with foreign governments, or with private concerns which in any way relates to the control or fixing of rates or the interchange of traffic, or which may serve in any way to restrict or prevent competing American companies, engaged in furnishing communication services, from extending their activities and further that no such agreements have been made subsequent to the filing of said application for this license (Ibid., pp. 419-420).

The above provisions are repeated in a number of later licenses. The present compilation will refer only to licenses which differ in some respect from this accepted form.

4. 1922: A license granted to the Western Union to land a cable at Miami Beach, Fla., contained the following special provision:

\* \* \* \* \*

(7) That the rates to be charged for messages over the cable established and operated under this license shall be just and reasonable and certified copies of all tariffs shall be filed with the Department of State.

That the rates from points in the United States to points in South America shall, in no case, exceed rates charged to the same points from points in Europe.

That neither the licensee nor any company or concern with which it may be associated shall impose "block rates" in Brazil, or elsewhere in South America, and no such rates shall be established in the future. \* \* \* (Ibid. p. 425.)

5. 1923: In some licenses one of the provisions of item 4 above is changed to read as follows:

\* \* \* \* \*

(9) That without the consent of the Department of State, the licensee shall not lease, transfer, assign, or sell the cable, nor consolidate, amalgamate, or combine with any other party or parties. If the licensee shall enter into any agreement with any other cable or communications company or any foreign government either for regulating rates or for any other purpose not covered by the preceding sentence, provision shall be made in any such agreement whereby it shall be subject to the approval of the Department of State and shall be transmitted to the Secretary of State immediately after execution and the Department of State shall have 30 days next after receipt thereof within which to signify its disapproval of the agreement. \* \* \* (Ibid., p. 428.)

6. 1923: The license granted the All America Cables to land a cable in the Panama Canal Zone contained the following stipulation:

\* \* \* \* \*

(7) That the rates to be charged for messages over the cable established and operated under this license shall be just and reasonable and certified copies of all tariffs shall be filed with the Department of State.

That neither the licensee nor any company or concern with which it may be associated shall impose "block rates" in Ecuador or elsewhere in South America, and no such rates shall be established in the future. \* \* \* (Ibid., p. 440.)

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## ANNEX B

### RATE PROVISIONS IN CERTAIN FOREIGN CABLE LANDING PERMITS

1. France, 1879: The permit to the French Cable Co. to land on the French coast contained the following provision:

ART. 6. The price for transmission by the new trans-Atlantic line shall not exceed 3 francs 75 centimes per word between any point in France and those localities in America where telegrams are now received at that rate. And the company shall pay to the French Government a percentage of all sums so received equal to that which is collected by the French Government on the transmission of dispatches by the cable of the Anglo-American Co.

ART. 7. The line of this company shall be subject to the rules of the St. Petersburg telegraphic convention and regulations, or to those of any other international instruments that may hereafter be adopted instead thereof, and especially as regards the enforcement of any modification of the tariff, the rule fixed by article XIV, paragraph 31 of the regulations. (Hearings on the Couzens bill, p. 362.)

2. France, 1884: The permit to the Commercial Cable Co. to land a cable on the French coast contained the following provisions:

\* \* \* \* \*

ART. 5: The cable tariff of the new line shall not exceed 2 francs 50 centimes per word between any point in France and such American places as are at present

served at the same rate as New York, and the company must render account to the French administration for a terminal tax equal to that collected by the French treasury from the Pouyer Quertier Co.

The company cannot in any case reclaim taxes once submitted without express authorization from the French administration.

If the company wishes to modify the cable rate, this can be done only in decimal fractions of 1 franc.

The rate for messages between France and any part of North America must not in any case exceed that charged by the company between the same place and any country in Europe. The portion of the tax reverting to the company on the cable tolls between France and North America must in no case exceed the portion received by the company for dispatches exchanged between any European country and North America.

In the same manner the cable company's share of the tax on telegrams from or to European countries other than France, passing over French lines, shall not exceed the company's proportion for these same telegrams by any other route.

Tariffs must be established on a uniform basis; all special rates (*tarif de faveur*) being rigorously forbidden.

ART. 6. The rules of the telegraph convention of St. Petersburg, and the London rule, shall be applied on the line, and all other international acts which may supersede the above, notably, in respect to any modification of the tariff, the rule fixed by article XVI, paragraph 3. \* \* \* (Ibid., p. 525.)

3. Portugal, 1899: The permit to the Europe and Azores Co. to land a cable in the Azores contained numerous detailed specific provisions relating to rates. Among them was one to the effect that—

The enterprise shall not have the power to augment its tariffs without previously obtaining the authorization of the Government. (Ibid. p. 554.)

4. Great Britain, 1919: The agreement between the British Government, Western Union Telegraph Co. and Anglo-American Telegraph Co. covering the right to land cables in Ireland contains the following provisions:

\*            \*            \*            \*            \*            \*

7. (1) During the existence of this license neither of the two companies shall fix, levy, or make payable higher rates of charge for the transmission of telegrams between America (including Newfoundland) on the one hand and the United Kingdom on the other hand than for the transmission of telegrams between America (including Newfoundland) on the one hand and any place in the Continent of Europe on the other.

\*            \*            \*            \*            \*            \*

8. (1) The two companies will from time to time furnish to the Postmaster General at his request all such information as to their rates of charge for telegrams over their trans-Atlantic cable system, the extent and condition of the business of their trans-Atlantic cable system, their income, expenditure, and their financial position, respectively, so far as regards such business as the Postmaster General may from time to time require: *Provided*, That the names of the customers of the two companies and details of their customers' accounts shall not be included in such information and that such information shall (except for the purpose of this agreement and such determination of differences as hereinafter mentioned) be treated as strictly private and shall be in no way published or publicly made use of (except as last aforesaid) without the consent of the two companies.

(2) The Postmaster General may at any time, by notice in writing delivered to the two companies, object to such part of the rates of charge (or any of them) of the two companies or either of them as relates to the transmission over the licensed cables of messages to or from the United Kingdom from or to New York, Boston, and Montreal, respectively, on the ground that the said rates are not just and reasonable.

(3) If when any such objection has been made the Postmaster General and the two companies, or either of them, are unable to agree as to the rates of charge which are the subject of the objection, the difference shall stand referred to the railway and canal commission, which shall have power to fix such rates of charge as they may think fit, but the commission shall fix the rates only after giving due and full consideration to the cost of maintenance, operation, and renewals of the trans-Atlantic cables owned or operated by the two companies, or either of them,

individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

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## ANNEX D

### EXTRACTS FROM THE INTERNATIONAL TELEGRAPH REGULATIONS WITH REFERENCE TO RATES

#### ARTICLE 26.—*Composition of the rates*

SECTION 1. The rates for the telegraph or radio transmission of international correspondence shall consist of:

- (a) The terminal charges of the administrations of origin and destination.
- (b) The transit charges of intermediate administrations in cases where the territories, installations, or communication channels of those administrations are used for the transmission of correspondence.
- (c) According to the circumstances, the transit charge pertaining to each of the two stations insuring a radio transmission or to the cables insuring a submarine transmission.

SEC. 2. Any administration supplying a direct international communication channel for the transit, may require from the terminal administrations the guarantee of a minimum revenue in transit charges.

SEC. 3. The rates resulting from the application of the provisions of section 1 to correspondence exchanged between the offices of any two countries of the union must be equal over the same route and in both directions.

SEC. 4. The rate shall be established by word pure and simple. However:

- (a) For telegrams in code language, a minimum charge equal to that of five words shall be compulsorily collected.
- (b) For the correspondence of the European system, each administration shall have the right to impose a minimum charge not to exceed one franc fifty (1 fr. 50) per telegram or, in conformity with the provisions of articles 30 and 31, to collect the charge in the form which it deems suitable.

#### ARTICLE 27.—*Establishing of basic rates in the European system*

(Text of article not here reproduced.)

#### ARTICLE 28.—*Establishing of basic rates in the extra-European system*

SECTION 1. For correspondence of the extra-European system, the terminal and transit charges shall be fixed in accordance with table B published by the Bureau of the Union. The rates of the countries included in the European system, except the Union of Soviet Socialist Republics, must not, however, exceed:

- (a) Twenty centimes (0 fr. 20), terminal charge, and fifteen centimes (0 fr. 15), transit charge, for Germany, Spain, France, Great Britain, Italy, and Turkey.<sup>1</sup>
- (b) Fifteen centimes (0 fr. 15), terminal charge, and twelve centimes (0 fr. 12), transit charge, for all the other countries.

SEC. 2. In the extra-European system, all European administrations shall have the right within the limits of the maxima authorized, and all extra-European administrations shall have the right to modify their terminal and transit charges

<sup>1</sup> Provisionally and as a temporary measure, Germany, France, and Italy may raise their terminal charge up to 22 centimes (0 fr. 22), and Germany and Spain, also provisionally and as a temporary measure, may retain whatever transit charges are in force at the time of the signing of these regulations.

for all or part of their correspondence, on condition that the terminal charges thus fixed shall be applicable to all routes between the same two countries.

SEC. 3. (1) In the extra-European system, each administration shall designate to its own offices the routes on which the charges are applicable to telegrams handed in by senders without a route indication. When the route designated by the administration is not the least expensive, the administration of origin shall be bound to transmit this route indication in the preamble of telegrams when necessary to insure the regular routing of the telegrams.

(2) In the case of telegrams filed with a route indication, the provisions of article 27, section 6, shall be applied.

#### ARTICLE 29.—*Period of time before new rates take effect*

SECTION 1. No new rates, and no changes in the whole or detail relating to rates, shall become effective until 15 days after their notification<sup>2</sup> by the Bureau of the Union, excluding the day of filing, and shall only become effective on the first or sixteenth following the last day of this period.

SEC. 2. (1) The period of 15 days shall be reduced to 10 days for changes intended to equalize these charges with those competing routes already notified. For radiotelegrams originating in mobile stations, however, changes in telegraph rates shall not become effective until 1 month after the intervals provided in section 1.

SEC. 3. The provisions of the above paragraphs shall suffer no exceptions.

#### ARTICLE 30.—*Right to round off charges*

SECTION 1. The charges to be collected by virtue of articles 25 to 29 may be rounded up or down, either after application of the normal word rates fixed according to the tables published by the Bureau of the Union or by increasing or diminishing these normal rates in accordance with the monetary of other requirements of the country of origin.

SEC. 2. Changes made by virtue of the preceding paragraph shall apply only to the charge collected by the office of origin and shall involve no alteration in the distribution of charges accruing to the other administrations concerned. They must be arranged so that the difference between the charge collected for a telegram of 15 words and the charge calculated exactly in accordance with the tables by means of the gold-franc equivalents fixed in conformity with the provisions of the following article, is not more than one fifteenth of the latter rate; that is, the regulatory charge for one word.

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## ANNEX E

### RATES FOR RADIOTELEGRAMS

(Extracts from the additional radio regulations signed at Madrid, Dec. 9, 1932.  
These regulations were not signed by the United States)

#### ARTICLE 1.—*Application of the telegraph and telephone regulations to radio communication*

SECTION 1. The provisions of the telegraph and telephone regulations shall be applicable to radio wherever the radio regulations do not provide otherwise.

SEC. 2. (1) Radiotelegrams shall be drafted and dealt with in conformity with the provisions set forth in the telegraph regulations for telegrams, with the exception of the cases provided for in the following articles. \* \* \*

#### ARTICLE 2.—*Charges*

SECTION 1. The charge for a radiotelegram originating in or intended for a mobile station, or exchanged between mobile stations shall include, as the case may be—

(a) The on-board charge accruing to the mobile station of origin or destination, or to both these stations;

<sup>2</sup> If there are several notifications, the date of the first one of these shall be the only one to consider in computing the period of time.



